

AMENDMENT

U.S. Appln. No. 09/485,320

REMARKS

On page 2 of the Office Action, the Examiner rejects Claims 1, 3-7 and 9-12 under 35 U.S.C. § 112, second paragraph.

Specifically, the Examiner states that the claims are vague and indefinite because they lack the limitation of "live" or "viable" for the *Streptococcus* strain. Additionally, the Examiner states that the limitations of Claim 4, which require inclusion of "at least one component that favors the maintenance and growth of the strain", should be recited in the independent claims to clarify the invention.

Applicants respectfully submit that one skilled in the art would read the claimed strain to be viable or alive in the absence of specific recitation that the strain is not alive. In any event, solely to advance prosecution, Applicants hereby amend the now pending claims as suggested by the Examiner, thereby rendering moot the Examiner's rejection.

In addition, on page 2 of the Office Action, the Examiner rejects Claim 1, 4-7 and 9-12 under 35 U.S.C. § 112, first paragraph.

Specifically, the Examiner states that while the specification is enabling for a composition comprising the specific deposited strains, the specification does not provide enablement for a composition comprising *Streptococcus intermedius* or *Streptococcus constellatus* that are capable of degrading daidzein to equol. The Examiner contends that it would require undue experimentation to determine what strains, other than deposited strains of *Streptococcus intermedius* and *Streptococcus constellatus*, would

AMENDMENT

U.S. Appln. No. 09/485,320

have the required properties, and thus be suitable for the claimed invention.

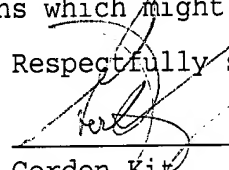
The Examiner notes that Claim 3 has not been included in this rejection, and would be allowable if placed in independent form.

However, the Examiner is requested to note that Claim 3 is already an independent claim. The Examiner has apparently overlooked this fact. In any event, in view of the amendments to the claims, Applicants respectfully submit that the Examiner's rejection has been rendered moot.

In view of the amendments to the claims and arguments set forth above, reexamination, reconsideration and allowance are respectfully requested.

The Examiner is invited to contact the undersigned at the below-listed number on any questions which might arise.

Respectfully submitted,


Gordon Kit

Registration No. 30,764

SUGHRUE MION, PLLC

Telephone: (202) 293-7060

Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: August 28, 2003